IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 1133 of 2006

DATED: 28-4-2006

Between:

The Depot Manager,

APSRTC, Cantonment Depot,

Picket , Secunderabad petitioner

And

Ch.Nagender S/o. Ch.Reddy

E No. 93510,

Cantonment Depot and another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

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WRIT PETITION NO. 1133 of 2006

ORAL ORDER:

The award of the Labour Court in I.D. No. 47 of 2004 dated 20.9.2005 is under challenge in this Writ Petition. By the said award, the Labour Court held that the domestic enquiry conducted against the petitioner/workman is invalid.

The petitioner herein is management/APSRTC and the first respondent is the workman. The first respondent was issued with a charge memo dated 18.6.2003 alleging cash and ticket irregularities. On 23.6.2003, the first respondent was issued charge sheet, and was placed under suspension. The first respondent submitted his explanation, but the petitioner, not satisfied with the explanation, ordered an enquiry and appointed Chief Inspector (Enquiries) as Enquiry Officer, who after conducting the departmental enquiry, submitted his report, and based on the said report, the petitioner called for the objections of the first respondent, and upon considering his objections, issued show cause notice of removal on 13.10.2003. Ultimately by proceedings dated 30.10.2003, the first respondent was removed from service. The appeal filed by the first respondent was rejected vide proceedings dated 22.1.2004. Questioning the removal order, the first respondent/workman raised an industrial dispute in I.D. No. 47 of 2004. The Labour Court on consideration of the matter, passed award dated 20.9.2005 holding that the domestic enquiry conducted by the petitioner against the workman is invalid. Hence, the management filed the present writ petition.

Learned Standing Counsel for petitioner-corporation submitted that the reasoning given by the Labour Court in holding that the domestic enquiry conducted by the petitioner against the workman, is invalid, is not correct. He submitted that the expression “pending enquiry” in the suspension order has no significance, and only on receipt of the explanation of the workman, the enquiry was ordered. He contended that the respondents having considered the explanation of the workman, were dissatisfied, and therefore, they ordered an enquiry, and as such, the finding of the labour Court that the domestic enquiry conducted by the petitioner against the workman, is invalid, is illegal and arbitrary, and is liable to be quashed.

Heard the learned Standing Counsel for the petitioner-corporation and the learned counsel for the first respondent-workman.

I am unable to subscribe to the view taken by the Labour Court holding that the domestic enquiry conducted by the petitioner against the workman is invalid, for the reason that the Labour Court, had merely based its finding on the ground that the disciplinary authority has made up its mind beforehand to remove the petitioner from service, and that without considering the explanation of the workman, it had ordered the enquiry. The reasoning given by the Labour Court is wrong. The validity of

departmental enquiry depends on so many grounds like, if the competent authority has not initiated the proceedings and/or, if the authority concerned has not followed the principles of natural justice and it had violated the procedure etc. In all such cases, the Labour Court can record its findings on the validity of the departmental enquiry. Whereas, in the present case, the reasoning given by the Labour Court is that the Disciplinary Authority while appointing the enquiry officer has used the words “pending enquiry” and that the workman was suspended before submitting his explanation, which cannot be a ground to declare the departmental enquiry, as invalid. Therefore, I deem it appropriate not to sustain the finding given by the Labour Court on the validity or otherwise of the departmental enquiry, and feel it appropriate to remit the matter to the Labour Court.

Having regard to the judgment of the apex Court in **Cooper Engineering Ltd Vs. P. P. Mundhe**, wherein it was held that there can be no piecemeal adjudication of the Labour disputes, the parties are at liberty to adduce evidence on the aspect of validity or otherwise of the departmental enquiry, the matter is remitted to the Labour Court. The Labour Court shall adjudicate the matter after affording reasonable opportunity to both the parties to adduce evidence, and pass appropriate orders, without reference to the findings recorded by it on the validity of the departmental enquiry.

Subject to above direction, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

DATE:28-4-2006

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